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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/217,878 12/21/98 DUNCAN

G VTN-415

EXAMINER

QM12/0529

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ART UNIT

PAPER NUMBER

3721

DATE MAILED:

05/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/217,878

Applicant(s)

DUNCAN ET AL.

Examiner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-46 is/are pending in the application.
- 4a) Of the above claim(s) 37-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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The finality of the last Office action is hereby withdrawn and the amendment of May 8, 2001 has been entered.

Newly submitted claims 37-46 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Group I, claims 26-36 directed to an apparatus for packaging single containers, classified in class 53, subclass 249; and Group II, claims 37-46, directed to an apparatus for packaging plurality of containers, classified in class 53, subclass 282. These inventions are considered to be independent inventions. Two different combinations, not disclosed as capable of use together, having different modes of operation, different functions or different effects are independent (See MPEP 806.04). The Group II claims are directed to an apparatus comprising a single platen for a plurality of carriers and a plurality of mandrels operating on the plurality of carriers while the Group I claims are directed to a plurality of platens and a plurality of mandrels each operating on a single carrier.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 37-46 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

Claims 31 is rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. There is no antecedent basis in claims 26 or 31 for the "print" on the lidstock of claim 31.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 26-28,35 and 36 are rejected under **35 U.S.C. 102(b)** as being clearly anticipated by Giovannone (5,379,572). The patent to Giovannone shows a packaging machine which comprises a plurality of carriers (read on the portion of the conveyor holding/pushing each blister), a plurality of vertically moveable lifts 22,32,42, a plurality of platens 26,36,46 on the lifts, a plurality of mandrels 20,30,40 above the platens and a lidstock maneuvering system 16 for placing lidstock between the blisters on the carriers and the mandrels which seal the lidstock to the blisters. The specific product being packages is given little patentable significance in apparatus claims since it does not affect the structure of the device.

Claims 26-36 are rejected under **35 U.S.C. 103(a)** as being unpatentable over the patent to Giovannone in view of Edwards (5,565,059 – cited by applicant). The patent to Giovannone does not specifically teach the inspection of the packages. The patent to Edwards shows a contact lens packaging system wherein an inspection system verifies the proper alignment of the printed matter on the lidstock within the machine (see column 8, lines 30-36). It would have been obvious to one skilled in the art to provide the packaging system of Giovannone with an inspection system such as disclosed by Edwards to ensure proper registration of the lidstock with the blisters.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are not persuasive. Applicant argues regarding the 35USC102 rejection that the reference to Giovannone fails to show "adjacent platens, discrete carriers, the formation of set packages". As was set forth in the rejection the adjacent platens are read on elements 26,36,46 of Giovannone, the discrete carriers are read on the conveyor cavities holding the containers and the set of packages is read on the packages produced by the Giovannone operation.

Regarding the 35USC103 rejection, applicant argues that the combination of Giovannone and Edwards does not teach "multiple platens or multiple mandrels and individual carriers". As was set forth in the rejection and argued above, these elements are shown by the combination of references. Furthermore, the Edwards reference sets forth the sealing of multiple packages with lidstock to form a set of packages and the inspection of the lidstock printed matter.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 5:00 PM Tuesday through Friday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
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